

Chapter 2

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ARTICLE I. IN GENERAL

Sec. 2-1. Municipal name.

The municipality shall hereafter be known as the City of Helotes, Texas.

Sec. 2-2. Official seal.

- (a) The official seal of the city is hereby established and approved and is to be used on all official papers of the city.
- (b) The seal is described as follows: The seal of the city being a circular seal with the State of Texas represented in the centermost circle with an ear of corn marking the location of Helotes within the state. Surrounding the State of Texas are the words: "CITY OF HELOTES, COUNTY OF BEXAR, INCORPORATED 1981." This is enclosed by a thinly lined circle with a more thickly lined circle surrounded by five-pointed stars around the outer edge of the circle.



Sec. 2-3. Term "City", City seal, and other insignia restricted.

- (a) No person shall use as its business name or part thereof, the word "City" within the corporate limits of the City of Helotes in a deceptive manner designed or intended to imply municipal sponsorship or approval for any purpose. A person commits an offense if he uses the official flag, seal, shield, service mark, badge, or other official insignia of the City or a department of the City or a facsimile of the flag, seal, shield, service mark, badge, or other official insignia of the City or a department of the City:
 - (1) for a commercial purpose; or
 - (2) to signify sponsorship or approval by the City or any agency or department of the thereof;
 - (3) in any medium physical, electronic, or otherwise that is apparent, present or viewable in the municipal boundaries of Helotes.
- (b) Any person violating any provision of this section shall be guilty of a misdemeanor and punished in the municipal court by a fine of not less than \$25.00 nor more than \$200.00 with each day of continuing violation constituting a separate offense punishable by the imposition of a separate fine. In the prosecution of an offense under this section, proof of a culpable mental state shall not be a necessary element of proof.
- (c) In addition to the criminal penalties provided for herein, the City Attorney is authorized to obtain civil injunctive relief against any person or entity violating the provisions hereof.

- (d) It is a defense to prosecution under this section that the offending party first obtained written authorization from the City Administrator for such use and the use is consistent with said authorization.

Sec. 2-4. Notice of claim against city.

- (a) The city shall never be liable for any claim for property damage or for personal injury, whether such personal injury results in death or not, unless the person damaged or injured, or someone in his behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death or injury, shall, within 60 days or within six months for good cause shown from the date the damage or injury was received, give notice in writing to the Mayor and city council of the following facts:
 - (1) The date and time when the injury occurred and the place where the injured person or property was at the time when the injury was received.
 - (2) The nature of the damage or injury sustained.
 - (3) The apparent extent of the damage or injury sustained.
 - (4) A specific and detailed statement of how and under what circumstances the damage or injury occurred.
 - (5) The amount for which each claimants will settle.
 - (6) The actual place of residence of each claimant by street, number, city and state on the date the claim is presented.
 - (7) In the case of personal injury or death, the names and addresses of all persons who, according to the knowledge or information of the claimant, witnessed the happening of the injury of any part thereof and the names of the doctors, if any, to whose care the injured person is committed.
 - (8) In the case of property damage, the location of the damaged property at the time the claim was submitted along with the names and addresses of all persons who witnessed the happening of the damage or any part thereof.
- (b) No suit of any nature whatsoever shall be instituted or maintained against the city unless the plaintiff therein shall prove that previous to the filing of the original petition the plaintiff applied to the city council for redress, satisfaction, compensation, or relief, as the case may be, and that the same was by vote of the city council refused.
- (c) All notices required by this section shall be effectuated by serving them upon the Mayor, city administrator or city secretary at the following location: 12951 Bandera Road, Helotes, Texas 78023, and all such notices shall be effective only when actually received in the office of the person named above.
- (d) The above written notice requirement shall be waived if the city has actual knowledge of death, injury or property damage likely to result in a claim against the city. The city shall not be deemed to have actual knowledge unless that knowledge is attributable to

an appropriate city official whose job duties include the authority to investigate and/or settle claims against the city.

- (e) The written notice required under this section shall be sworn to by the person claiming the damage or injuries or by someone authorized by him to do so on his behalf. Failure to swear to the notice as required herein shall not render the notice fatally defective, but failure to so verify the notice may be considered by the city council as a factor relating to the truth of the allegations and to the weight to be given to the allegations contained therein.

Sec. 2-5. Authority of city officers, agents and employees responding to emergency situation; exemption from liability.

Every officer, agent or employee of the city, while responding to emergency situations is hereby authorized to act in such a manner as to most effectively deal with the emergency. This provision shall prevail over every other ordinance of the city and, to the extent to which the city has the authority to so authorize, over any other law establishing a standard of care in conflict with this section. Neither the city nor the employee shall be liable for any failure to use ordinary care in such emergency.

Sec. 2-6. City vehicles to be used for official business only.

All motor vehicles owned by the City shall be used only for the official business of the City and it shall be a violation of City policy for any employee of the City to transport or carry in any vehicle owned by the City any person not an employee of the City except when such transporting or carrying is authorized for and done in furtherance of official business.

Sec. 2-7. Disclaimer of warranties - inspection services.

Inspection services performed by the City, including, but not limited to, fire, police, building, health, and code enforcement inspection services, are done solely for the purpose of verifying compliance with the law as a part of the City's governmental interests in law enforcement and public safety. All such inspections are provided "AS-IS" and without warranty, expressed or implied. No special relationship between the City and any person affected by such inspections is created or intended. Nothing contained herein shall ever be considered a waiver, or reviver of governmental or sovereign immunity disclaimed herein or by other law.

(Ord. No. 039, §1, 11-25-1985; Ord. No. 59, §1, 12-22-1988; Ord. No. 64, §§1-5, 7-27-1989; Ord. No. 520, §1, 4-10-2014)

Secs. 2-4 - 2-10. Reserved.

ARTICLE II. OFFICERS AND EMPLOYEES

DIVISION 1. GENERALLY

Sec. 2-11. Appointment and removal; non-discrimination; nepotism.

- (a) *Non-discrimination.* It is the policy of the city, in the recruitment, appointment, removal, suspension and discipline of employees of the city, not to discriminate against any person in any way, whether such person be an employee, applicant or otherwise, on grounds of race, color, religion, national origin, sex, age, handicap, creed or political affiliation or belief.
- (b) *Appointment; term of office.* Any and all employees of the city shall be appointed for an indefinite term by a majority vote of the city council, and, after appointment, shall serve at the will and pleasure of the city council.
- (c) *Suspension and removal.* Any and all employees of the city may be suspended, disciplined, or removed by a majority vote of the city council.
- (d) *Nepotism.* No person related within the second degree of affinity or within the third degree by consanguinity to any elected official of the city shall be appointed to any office, position or clerkship or other service of the city either on a full-time or part-time basis. This provision will not apply retroactively to city personnel employed prior to the effective date of the ordinance from which this section is derived.

(Ord. No. 027, §§1-4, 6-23-1983)

Secs. 2-12 - 2-20. Reserved.

DIVISION 2. CITY ADMINISTRATOR

Sec. 2-21. Position established.

- (a) The position of Administrative Assistant of the city as created in Ordinance No. 35 on February 21, 1985, is hereby abolished.
 - (b) The position of City Administrator is hereby created and established.
- (Ord. No. 84, §§1, 2, 4-22-1993)

Sec. 2-22. Appointment.

This position will be filled by a person selected by the council. (Ord. No. 84, § 3, 4-22-1993; Ord. No. 347, §1, 10-11-07)

Sec. 2-23. Term.

The City Administrator will have no term of office but will serve at the will and pleasure of the City Council and Mayor. (Ord. No. 84, §4, 4-22-1993)

Sec. 2-24. Duties.

The City Administrator will function as an assistant to the Mayor and Council and will assume such administrative duties and responsibilities as the City Council may direct. (Ord. No. 84, §5, 4-22-1993)

Sec. 2-25. Hours of work; salary.

The position of City Administrator is a full-time position. The hours of work will be established by the city council. The salary for the Administrator will be according to the city's master salary plan and the grade level assigned to the position by the City Council. Additional compensation will be made in the form of benefits available to all city employees. (Ord. No. 84, §6, 4-22-1993)

Sec. 2-26. Qualifications.

Qualifications required for the position of City Administrator will be determined by the Mayor and City Council. (Ord. No. 84, §7, 4-22-1993)

Secs. 2-27 - 2-30. Reserved.

DIVISION 3. CITY CLERK/SECRETARY

Sec. 2-31. Office created; duties.

The office of City Clerk/Secretary is created and the duties of the office are those prescribed by V.T.C.A., Local Government Code §22.071 et seq. Those duties are:

- (1) Attend every meeting of the city council and keep accurate minutes of the proceedings.
- (2) Engross and enroll all laws, resolutions, and ordinances of the city.
- (3) Keep the corporate seal.
- (4) Take charge of and preserve all books, records, papers, documents, and files of the city.
- (5) Countersign all commissions issued to the city officers and licenses issued by the Mayor, and keep a record and register thereof.
- (6) Draw all warrants on the treasurer and countersign the same and keep an accurate account thereof.
- (7) Keep in books regular accounts of the receipts and disbursements of the city.
- (8) Keep a register of all bonds and bills issued by the city.
- (9) Keep all records of all contracts of the city.
- (10) Countersign all bonds issued by the city.
- (11) Perform such other duties as the city council may require.
- (12) Be the clerk of the Municipal Court, unless otherwise determined.
- (13) Serve as secretary to other boards of the city as directed by the Council.

(Ord. No. 006, 1-22-1982)

Secs. 2-32 - 2-40. Reserved.

DIVISION 4. RETIREMENT

Sec. 2-41. Participation in Texas Municipal Retirement System.

- (a) The City Council, on behalf of the City, hereby exercises its option and elects to have the City and all of the employees of all departments now existing and those hereafter created participate in the Texas Municipal Retirement System as provided in the TMRS Act.
 - (b) The City Administrator is hereby directed to notify the Board of Trustees of the Texas Municipal Retirement System that the City has elected to participate and have the employees of the City covered in said system.
 - (c) Each person who becomes an employee of a participating City on or after the effective date of participation of such City whose position shall require more than 999 hours per year shall become a member of the Texas Municipal Retirement System as a condition of his\her employment.
 - (d) Each employee who qualifies for such credit shall be allowed "prior service credit" (as defined in section 63.101 of the TMRS Act) at the rate of 100 percent of the "base credit" of such member, calculated in the manner prescribed in section 63.105 of said Act.
 - (e) The City Administrator is hereby directed to remit to the Board of Trustees of the Texas Municipal Retirement System, at its office in Austin, Texas, the City contributions to the system and the amounts which shall be deducted from the compensation or payroll of employees, all as required by said Board under the provisions of the TMRS Act, and the said official is hereby authorized and directed to ascertain and certify officially on behalf of this City the prior service rendered to the said municipality by each of the employees of the participating departments, and the average prior service compensation received by each, and to make and execute all prior service certifications and all other reports and certifications which may be required of the City under the provisions of the TMRS Act, or in compliance with the rules and regulations of the Board of Trustees of the Texas Municipal Retirement System.
 - (f) The City hereby elects to participate in the supplemental death benefits fund of the Texas Municipal Retirement System for the purpose of providing in-service death benefits for each of the City's employees who are members of said system, and for the purpose of providing post-retirement death benefits for annuitants whose last covered employment was as an employee of the City, in the amounts and on the terms provided for in V.T.C.A., Government Code §§ 852.004, 854.601--854.605, 855.314, 855.409 and 855.502, as amended.
 - (g) The City is hereby authorized and directed to notify the Director of the system of the adoption of the ordinance codified by this Division, and of the participation of the City in said fund.
- (Ord. No. 46, §§1-9, 9-9-1987; Ord. No. 481, §1, 9-13-2012)

Sec. 2-42. Authorization of restricted prior service credit; authorization of military service credit.

- (a) Authorization of restricted prior service credit.
 - (1) On the terms and conditions set out in V.T.C.A., Government Code § 853.305, of Subtitle G of Title 8, Texas Government Code (V.T.C.A., Government Code § 851.001 et seq.), as amended (hereinafter referred to as the "TMRS Act"), each member of the Texas Municipal Retirement System (hereinafter referred to as the "System") who is now or who hereafter becomes an employee of this City shall receive restricted prior service credit for service previously performed as an employee of any of the entities described in said Section 853.305 provided that (i) the person does not otherwise have credited service in the System for that service, and (ii) the service meets the requirements of V.T.C.A., Government Code § 853.305.
 - (2) The service credit hereby granted may be used only to satisfy length-of-service requirements for retirement eligibility, has no monetary value in computing the annuity

payments allowable to the member, and may not be used in other computations, including computation of updated service credits.

- (3) A member seeking to establish restricted prior service credit under this Section must take the action required under V.T.C.A., Government Code § 853.305 while still an employee of this City.
- (b) Authorization of military service credit.
 - (1) Pursuant to V.T.C.A., Government Code, §853.502, as amended, the City hereby elects to allow eligible members in its employment to establish credit in the Texas Municipal Retirement System for active military service performed as a member of the armed forces or armed forces reserves of the United States or an auxiliary of the armed forces or armed forces reserves. Eligible members as used herein shall be those employees meeting the criteria set forth in V.T.C.A., Government Code §§ 853.502(b) and 853.503, and the amount and use of creditable military service shall be as further set forth in V.T.C.A., Government Code §853.505.
 - (2) In order to establish credit for military service hereunder, a member must deposit with the Texas Municipal Retirement System (in that member's individual account in the employees saving fund), an amount equal to the number of months for which credit is sought, multiplied by \$15.00. The City agrees that its account in the municipality accumulation fund is to be charged at the time of the member's retirement with an amount equal to the accumulated amount paid by the member for military service credit, multiplied by the City's current service matching ratio in effect at the date the member applies for such military service credit.

(Ord. No. 46A, §§1, 2, 2-8-2001; Ord. No. 481, §1, 9-13-2012)

Sec. 2-43. Employee/employer participation rate.

- (a) All employees of the City who are members of the Texas Municipal Retirement System shall make deposits to the system at the rate of six percent (6%) of their individual earnings.
- (b) For each month of current service rendered by each of its employees who are members of the Texas Municipal Retirement System, the City will contribute to the current service annuity reserve of each such member, at the time of his retirement, a sum that is two hundred (200) percent of such member's accumulated deposits for such month of employment; and said sum shall be contributed from the City's account in the municipality accumulation fund

(Ord. No. 219, §§1, 2, 9-26-2002; Ord. No. 481, §1, 9-13-2012)

Sec. 2-44. Eligibility for retirement after 20 years of service.

Pursuant to the provisions of V.T.C.A., Government Code §854.202(g), of subtitle G of Title 8, Texas Government Code (V.T.C.A., Government Code §851.001 et seq.), as amended, which subtitle shall herein be referred to as the "TMRS Act," the City adopts the following provisions affecting the participation of its employees in the Texas Municipal Retirement System (herein referred to as the "System"):

- (1) Any employee of the City who is a member of the System is eligible to retire and receive a service retirement annuity if the member has at least twenty (20) years of credited service in the System performed for one or more municipalities that have adopted a like provision under V.T.C.A., Government Code §854.202(g).

- (2) Prior to adopting this Section, the governing body of the City has: (i) prepared an actuarial analysis of member retirement annuities at 20 years of service; and (ii) held a public hearing pursuant to the notice provisions of the Texas Open Meetings Act, V.T.C.A., Government Code Ch. 551.
- (3) The rights hereinabove authorized shall be in addition to the plan provisions heretofore adopted and in force at the effective date of this section pursuant to the TMRS Act.

(Ord. No. 220, §1, 9-26-2002; Ord. No. 481, §1, 9-13-2012)

Secs. 2-45 - 2-50. Reserved.

ARTICLE III. RECORDS MANAGEMENT

Sec. 2-51. Applicability.

All documents, papers, letters, books, maps, photographs, sound or video recordings, microfilms, magnetic tape, electronic media, or other information recording media, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by the city or any of its officers or employees pursuant to law or in the transaction of public business are hereby declared to be the records of the city and shall be created, maintained, and disposed of in accordance with the provisions of this article or procedures authorized by it and in no other manner. (Ord. No. 73, §1, 5-23-1991)

Sec. 2-52. City records declared public property.

All city records as defined in section 2-51 are hereby declared to be the property of the city. No city official or employee has, by virtue of his position, any personal or property right to such records even though he may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited. (Ord. No. 73, §3, 5-23-1991)

Sec. 2-53. Policy.

It is hereby declared to be the policy of the city to provide for efficient, economical, and effective controls over the creation, distribution, organization maintenance, use, and disposition of all city records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the Texas Local Government Records Act and accepted records management practice. (Ord. No. 73, §4, 5-23-1991)

Sec. 2-54. Records management officer.

The City Secretary will serve as records management officer for the City as provided by law and will ensure that the maintenance, destruction, electronic storage, or other disposition of the records of this office are carried out in accordance with the requirements of the Local Government Records Act. (Ord. No. 73, §5, 5-23-1991; Ord. No. 402, §2, 5-14-2009)

Sec. 2-55. Records control schedules.

Appropriate records control schedules issued by the Texas State Library and Archives Commission shall be adopted by the records management officer for use in the City, as provided by law. Any destruction of records of the City will be in accordance with these schedules and the Local Government Records Act. (Ord. No. 402, §2, 5-14-2009)

Secs. 2-56 - 2-60. Reserved.

ARTICLE IV. ETHICS

Sec. 2-61. Title; purpose.

- (a) *Popular name.* This subchapter shall hereinafter be referenced as the city's "Code of Governmental Ethics."
- (b) *Purpose.* It is the policy of the city that all municipal officers and employees shall conduct themselves both inside and outside the city's service so as to give no occasion for distrust of their integrity, impartiality, and devotion to the best interest of the city and the public trust which the city representatives hold. To this end and to expressly ensure its accomplishment, the City Council establishes this Code of Governmental Ethics to serve as a guide for official conduct of the city's public servants and as a basis for discipline for those who violate its terms. (Ord. No. 299, §1, 1-26-2006; Ord. No. 335, §1, 04-26-2007)

Sec. 2-62. Definitions.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words and phrases which are not defined in this subchapter but are defined in other ordinances or code provisions of the city shall be given the meanings set forth in those provisions.

Business Entity. A sole proprietorship, firm, partnership, corporation, holding company, limited liability company, receivership, trust, joint-stock company, enterprise, franchise, association, organization, or any other entity recognized by law and organized for profit.

City. The City of the Helotes, an incorporated municipality located in Bexar County, Texas, its agents and employees including employed or volunteer personnel of the fire, police and EMS departments.

Employee. Any person employed or working for the city full-time or part-time, or for the purposes of this ordinance only, any independent contractor.

Immediate Family. The spouse, children, siblings, and parents of an officer (official) or an employee, and the children, siblings, and parents of the spouse of the officer (official) or employee. These relationships are established by either consanguinity (blood) or affinity (adoption).

Lobbyist.

- (1) A person who either:
 - (a) Makes a total expenditure of an amount more than \$200 in a calendar year, not including the person's own travel, food, or lodging expenses or the person's own membership dues, on activities to communicate directly with one or more city officers or employees in an attempt to influence city regulations, financial procurements, or administrative action; or

- (b) Receives compensation or reimbursement, not including reimbursement for the person's own travel, food, or lodging expenses or the person's own membership dues, of more than \$200 in a calendar year from another person to communicate directly with city officers or employees to influence legislation or administrative action.

(2) This term shall not include employees of government entities.

Officer. The Mayor or any Member of the City Council, and any appointed member of a city commission, board, or committee.

Person. Any human individual or corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

Substantial Interest.

- (1) A person has a substantial interest if:
 - a. the person owns 10% or more of the voting stock or shares of a business entity or owns either 10% or more or \$15,000 or more of the fair market value of a business entity; or
 - b. funds received by the person from the business entity exceed 10% of the person's gross income for the previous year; or
 - c. the person has an interest in real property that is an equitable or legal ownership interest with a fair market value of \$2,500 or more.
- (2) An officer or employee is considered to have a Substantial Interest under this definition if a person related to the official in the first degree of consanguinity or affinity, as determined by the definition of degrees of relationship as provided in the Tex. Gov't Code, Chapter 573, as amended, has a Substantial Interest under this section.

Volunteer. Any unpaid person acting in an unpaid official capacity on behalf of the city.

(Ord. No. 299, §1, 1-26-2006e; Ord. No. 335, §1, 04-26-2007)

Sec. 2-63. Ethics Commission.

- (a) *Establishment.* In order to guarantee that citizens are assured of their ability to hold city officials and employees accountable for their actions, an Ethics Commission is hereby established. This Commission is to be composed of seven members. The City Council and Mayor shall each appoint one member to the Commission. A seventh member shall be appointed by majority vote of the City Council. If a vacancy occurs on the Commission, the City Council shall appoint a person to fill the unexpired term. Each Commission member shall take an oath of office comparable to that taken by City Council Members. Ethics Commissioners shall serve without compensation but shall be eligible to be reimbursed for actual expenses in accordance with city policy.
- (b) *Terms of Commissioners.* At the first regular meeting, all Commissioners shall either agree among themselves, or draw lots to determine which three members shall serve an initial term of one year. Thereafter, all terms shall be two years. No member may serve more than two consecutive terms. The City Council may by majority vote remove a Commissioner with or without cause. Any Commissioner who misses three consecutive meetings within a 12-month time period or 1/3 of all regular meetings shall be deemed to have automatically vacated his or her position on the Commission. This section shall not apply to a Commissioner who applied for and received an excused absence from the Commission chairperson prior to the meeting(s) at issue. Any Commissioner who no longer resides within the corporate boundaries or extraterritorial jurisdiction, as provided above, is deemed to have automatically vacated his or

- her position on the Commission. All vacancies shall be filled for the unexpired terms. Members hold office until their successors have been appointed.
- (c) *Commission officers.* From among its members the Commission shall elect its officers, those being the chairperson, vice-chairperson, and secretary. Officers shall be elected for terms of one year. The chairperson shall preside over all meetings and may vote. If the chairperson fails or refuses to act, the vice-chairperson shall perform the duties of the chairperson. If the chairperson and vice-chairperson are absent, any Commissioner may be appointed by the remaining members of the Commission to preside over the meeting.
 - (d) *Qualifications.*
 - (1) Commission members must be registered voters who are residents of the city or the extraterritorial jurisdiction, with no more than three members of the Commission being residents of the extraterritorial jurisdiction.
 - (2) No member of the Ethics Commission may be:
 - a. A City of Helotes official or spouse of a City of Helotes official;
 - b. A City of Helotes employee or spouse of a City of Helotes employee;
 - c. An elected public official;
 - d. A candidate for elected public office;
 - e. An officer of a political party;
 - f. A campaign treasurer, campaign manager, officer or other policy or decision-maker for any political action committee;
 - g. A member of any board or commission for which the position is appointed by City Council;
 - h. A lobbyist;
 - i. Anyone having any substantial interests with any city officer;
 - j. Anyone who has been a paid campaign worker or paid political consultant for any City Council or Mayoral candidate
 - k. Any person contracted with the city or any person who is employed by a business entity that is contracted with the city; or
 - l. A convicted felon.
 - (e) *Legal counsel.* The City Attorney shall serve as legal counsel to the Commission.
 - (f) *Commission rules and procedures.* The Commission shall establish procedures in accordance with the City of Helotes' policies and procedures and Roberts' Rules of Order which shall be submitted in writing for approval to the City Council and Mayor. The Commission shall establish, amend, and rescind its procedures and maintain proper records of its proceedings and its opinions.

(g) Authority and duties.

- (1) The Commission shall meet as often as necessary to fulfill its responsibilities but must meet at least once a year in February to review the Code of Governmental Ethics and may make recommendations to the City Council.
- (2) The Commission shall be authorized to conduct public hearings and make written rulings on allegations of violations of this subchapter.
- (3) The Commission shall have the power to investigate, request, and gather evidence necessary to determine if a violation has occurred. The Commission shall have the power to enforce the provisions of this subchapter, including recommending to the City Council the prosecution of alleged violators. Upon the recommendation of the Commission, the City Council may employ or appoint any qualified attorney to investigate or prosecute any alleged violation or series of violations by one or more persons. Nothing in this subchapter shall be construed, however, to prevent complainants, including the city, from instituting direct legal action on their own behalf through the appropriate judicial authority.
- (4) The Commission shall receive from the city such administrative support as reasonably necessary to carry out the duties of the Commission.
- (5) The Commission shall maintain with the City Secretary or City Administrator, sworn complaints in compliance with the city's records retention schedule.

(Ord. No. 299, §1, 1-16-2006; Ord. No. 335, §1, 04-26-2007)

Sec. 2-64. Ethics complaints; procedures.

(a) Ethics complaints.

- (1) Any person, officer, or employee who is not currently under indictment in the county may submit a complaint in writing to the City Secretary, City Administrator, or Mayor. The complaint must be notarized and include the address and phone number of the complainant. The complaint must specify grounds for the allegation of a violation of this subchapter in plain and intelligible language and must cite specific details of the alleged violation, including the following, when available:
 - a. The name, title, address, and telephone number of the alleged violator;
 - b. The act or acts complained of;
 - c. The date(s) on or about of the alleged violation;
 - d. Other person(s) involved in the act(s); and
 - e. To the extent known, the specific section(s) of this subchapter that are alleged to have been violated.
- (2) Complaints must be submitted within one calendar year after the date of the alleged violation. The Commission shall not consider any alleged violation that occurred before the effective date of this subchapter.
- (3) Within five business days after a complaint has been filed, the City Secretary will forward the complaint to the Commission who shall, at the first available regularly scheduled meeting, make a preliminary determination as to the following:
 - a. whether the complaint is administratively complete in accordance with subsection (a) (1) of this section and if so;
 - b. whether the facts alleged in the complaint, if true, would at face value constitute a violation of this subchapter.
- (4) Commission's preliminary ruling:

- a. If it is determined by a majority of Commission members (not named in the complaint) that the facts, as alleged, would not constitute a violation of this subchapter, the complaint is to be rejected.
 - b. If it is determined by a majority of Commission members (not named in the complaint) that the facts, as alleged, would or could constitute a violation of this subchapter, the Commission shall make preliminary findings and conclusions as to a possible violation of this subchapter.
- (5) Within 5 business days after the City Secretary has received the Commission's preliminary findings, such findings shall be sent to the complainant and the person charged with the complaint by U.S. certified mail.
- (6) Upon Commission determination, that the allegations, if true could constitute a violation of this subchapter, the person charged shall have the opportunity to submit a sworn statement together with information he or she believes is relevant to the complaint to the City Secretary. Such sworn statement and additional information must be delivered to the Commission no later than 30 days after the person charge has actual knowledge of the complaint and the Commission's findings. Actual knowledge of the complaint and the Commission's findings shall be conclusively presumed by the City Secretary's receipt of proof of delivery by U.S. mail. Both the complainant and the person charged in the complaint shall be advised, in writing, that a false accusation or false response to an accusation may result in criminal prosecution.
- (7) *Frivolous Complaint.* For purposes of this section, a "frivolous complaint" is a sworn complaint that is groundless and brought in bad faith or groundless and brought for the purpose of harassment.
 - a. In deciding if a complaint is frivolous, the Commission will be guided by the Texas Rules of Civil Procedure, Rule 13, and interpretations of that rule.
 - b. Before making a determination that a sworn complaint is a frivolous complaint, the Commission shall hold a hearing at which time the complainant may be heard; the complainant may be accompanied by counsel retained by the complainant.
 - c. By a record vote of at least two-thirds of those present after the hearing, the Commission may determine that a complainant filed a frivolous complaint and may recommend sanctions against that complainant.
 - d. Before imposing a sanction for filing a frivolous complaint, the Commission shall consider the following factors:
 - 1. The seriousness of the violation, including the nature, circumstances, consequences, extent, and gravity of the violation;
 - 2. The sanction necessary to deter future violations; and
 - 3. Any other matters that justice may require.
 - e. The Commission may impose the following sanctions:
 - 1. A civil penalty of not more than \$500;
 - 2. Imposition of attorneys' fees incurred by the respondent of the frivolous complaint; or
 - 3. Any other sanction permitted by law.
 - f. Upon a finding by the Commission that a complaint is frivolous, the complainant may appeal the decision to City Council provided such appeal is made in writing and within 30 days after the finding was made.
 - g. No person, who has been deemed to have filed a frivolous complaint, may file any subsequent complaint with the Commission until such time as all penalties

imposed, under subsection (e) immediately above, for filing the frivolous complaint have been paid.

- (b) Commission hearing.
 - (1) Upon receipt of a response by the person charged in the complaint or, in the case of no response after the expiration of the 30 days the Ethics Commission shall set the matter for hearing at the first available meeting. The person(s) charged in the complaint, and the complainant shall be provided at least ten days notice of the date, time and location of the hearing. The person(s) charged in the complaint shall have the right to a full and complete hearing with the opportunity to call witnesses and present evidence, with the right to be represented by legal counsel at his, her, or their own expense. The Ethics Commission shall not be bound by the state Rules of Evidence or the state Rules of Civil Procedure.
 - (2) The Commission shall hear and deliberate complaints in closed session in accordance with Texas Government Code Section 551.074 unless the officer or employee, who is the subject of the deliberation or hearing, requests a public hearing. No final action, decision, or vote with regard to the matter shall be made except in an open meeting that complies with the state Open Meetings Act.
 - (3) Upon completion of the Commission's deliberations, the Commission shall submit a written report to the City Council. The minutes of the Ethics Commission meetings and hearings shall be sufficient to constitute a report. The report may include recommendations of the Commission. If the Commission finds that a violation of this subchapter has been committed or recommends disciplinary action be taken against person(s) charged in the complaint, the Commission's report must include specific findings of fact and conclusions based on the complaint and applicable sections of this subchapter.
- (c) Council action.
 - (1) The Commission's findings of violations of this subchapter and recommendations that disciplinary action be taken may be appealed to the City Council by the person(s) charged in the complaint. Upon receipt of a written request for an appeal, the City Council shall promptly schedule a public hearing. The hearing may be open or closed to the public, at the discretion of the person(s) charged in the complaint.
 - (2) Upon receipt of the Commission's report and upon conclusion of an appeal, if any, the City Council shall determine by majority vote what, if any, action is appropriate pursuant to this subchapter. Any disciplinary action shall require the affirmative vote of a super majority of the full City Council, without the participation of an affected Member. No final action, decision, or vote with regard to the matter shall be made except in an open meeting that complies with the state Open Meetings Act.
- (d) *Confidentiality.* No officer or employee shall reveal information relating to the filing or processing of a complaint, except as required pursuant to this subchapter, the state Public Information Act, and the city's applicable public information policies. Ex parte communications, being those occurring outside of duly posted Commission meetings and hearings, among person(s) charged in the complaint or those making the charge and members of the Commission, are prohibited. All information constituting confidential information or information protected by the attorney-client privilege, attorney work-product privilege, are to be withheld from public disclosure to the extent allowed by law, except that all evidence submitted to the Commission shall be public information. The unauthorized release of confidential information within the city's control shall itself constitute grounds for disciplinary action against officials, officers, employees, and volunteers.

(e) Disciplinary action.

- (1) *Elected officials; City Council and Mayor.* The failure of any City Council Member or the Mayor to comply with one or more of the applicable standards of conduct set forth in this subchapter shall constitute grounds for reprimand. Pursuant to Texas Local Government Code Section 22.007(a) a member of City Council is subject to removal for acts of incompetency, corruption, misconduct, or malfeasance in office.
- (2) *Officers other than the Mayor or Council.* The failure of a city officer, other than the Mayor or a Council Member, to comply with one or more of the standards of conduct set forth in this subchapter shall constitute grounds for reprimand or removal from office to the extent allowed by law. Officers, other than the Mayor or Council Members, may be removed at will, subject to applicable city regulations. Any officer removed from office shall be ineligible to hold a position on any city advisory board, committee, or commission, or employment for five years after removal, in addition to any other penalty provided by law.
- (3) *Employees.* The failure of an employee to comply with one or more of the standards of conduct set forth in this subchapter shall constitute grounds for disciplinary action, up to and including termination of employment, to the extent allowed by law. All disciplinary action and any appeals there from shall be in conformity with applicable procedures established by the personnel policies of the city. Any employee dismissed from employment shall be ineligible for city employment for five years after dismissal, in addition to any other penalty provided by law. Nothing in this ordinance shall be interpreted to authorize the Commission to hire an employee or terminate an employee's employment with the City.
- (4) Other remedies available for violations.
 - a. Penalties prescribed in this chapter do not limit the power of the Mayor, City Council, or City Administrator to discipline employees under their supervision pursuant to applicable city policies.
 - b. The penalties prescribed above do not limit the power of the City Council to discipline its own Members or members of appointed boards or commissions for violations of other city policies or regulations.

(Ord. No. 299, §1, 1-16-2006; Ord. No. 335, §1, 04-26-2007)

Sec. 2-65. Standards of conduct.

(a) Officers or employees.

- (1) Shall not intentionally or knowingly:
 - a. Accept, or agree to accept, any gift, favor, or service cumulatively valued over \$25 that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows or should know is being offered with the intent to influence the officer's or employee's official conduct;
 - b. Accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the officer or employee to disclose confidential information acquired by reason of his or her official position;
 - c. Accept other employment or compensation or engage in any outside activity that could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of the officer's or employee's official duties or which are incompatible with the full and proper discharge of city duties;

- d. Make personal investments that could reasonably be expected to create a conflict between the officer's or employee's private interest and the public interest;
 - e. Accept, or agree to accept, any benefit cumulatively valued over \$25 for having exercised the officer's or employee's official power or performed the officer's or employee's official duties in favor of another person;
 - f. Accept, or agree to accept, compensation in exchange for appearing before the City Council or any city commission, board, or committee, of which the officer or employee is a member, as a representative for any private person, including the officer or employee, any immediate family member, or any group. This division does not prohibit an officer or employee from voting when that officer or employee undertakes pro bono representation; or
 - g. Solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties of that officer or employee.
- (2) These standards shall not be construed to deprive an officer or employee of the right to due process under the law, including the right to represent himself or herself in an administrative or court proceeding.
- (b) Immediate family.
 - (1) No immediate family member of an officer, employee, or volunteer shall intentionally or knowingly:
 - a. Accept, or agree to accept, from another person any benefit that the member's relative, who is a city officer, employee, or volunteer, is prohibited from soliciting, accepting, or agreeing to accept under this subchapter;
 - b. Misuse any official information obtained from the member's relative, who is a city officer, employee, or volunteer, to which the relative has access by virtue of the relative's office or employment and that has not been made public, in a manner prohibited to the relative under state law; or
 - c. Misuse, as defined in Tex. Penal Code, § 39.01, any city property, services, personnel, or any other thing of value belonging to the city that has come into the member's custody or possession by virtue of the office or employment of the member's relative, who is a city officer or employee.
 - (2) Any prohibitions described in this division are in addition to those provided by state law.
- (c) No City Council Member shall intentionally or knowingly represent any private person, including the City Council Member or any immediate family member, or any group or interest before any department, agency, commission, or board of the city, except that a City Council Member may represent his or her interests in regards to any private property owned by the City Council Member before a board, agency, commission, or department of the city other than the City Council.
- (d) In any action or proceeding in the Municipal Court which is instituted by an officer or employee in the course of official duties:
 - (1) No City Council Member shall intentionally or knowingly represent any private person other than herself or himself including any immediate family member or any group, or interest. If a City Council Member elects to have a trial in Municipal Court, the City Council, without the participation of the affected City Council Member, will appoint a special judge to preside over the trial; and
 - (2) No officer or employee shall intentionally or knowingly represent, directly or indirectly, any private person, other than the officer or employee or any immediate family member, any group or interest in any action or proceeding against the interests of the city or in any

litigation in which the city or any department, agency, commission, or board thereof is a party.

(Ord. No. 299, §1, 1-16-2006; Ord. No. 335, §1, 04-26-2007)

Sec. 2-66. Conflict of interest.

- (a) Certain actions prohibited.
 - (1) No officer shall participate in deliberations, including a vote or decision, on a matter involving the city's procurement or disposition of any land, materials, supplies, or services in which the officer has a substantial interest if the vote or decision will have a special economic effect on the officer that is distinguishable from the effect on the general public.
 - (2) Any violation of this division with the actual or constructive knowledge of the officer shall render the contract voidable by the City Council.
- (b) Disclosure of conflict of interest.
 - (1) All officers shall disclose in writing the existence of any substantial interest which the officer may have in a matter which would be affected by a vote or decision of the body of which the officer is a member.
 - (2) Any officer having specific knowledge of any other officer that may have substantial interest in a matter, unknown to other officers, which would be affected by a vote or decision of the body of which the knowing officer is a member, shall disclose same in confidence to the Mayor or City Attorney.
 - (3) In the event of a conflict of interest, officers shall, prior to the vote or decision on the matter, file an affidavit with the City Secretary stating the nature and extent of the officer's interest.
 - (4) Employees shall notify their supervisors in writing of any substantial interest, that employees have in a matter, that would be affected by an exercise of discretionary authority by the employee if the exercise of the employee's authority will have a special economic effect on the employee that is distinguishable from the effect on the general public. Upon receipt of this notice, the employee's supervisor shall reassign the matter.
- (c) *Serving as surety prohibited.* No officer or employee shall serve as a surety on any official bond required of an officer or employee of the city, or as a surety for any person or entity doing business with the city.

(Ord. No. 299, §1, 1-26-2006; Ord. No. 335, §1, 04-26-2007)

Sec. 2-67. Financial disclosure.

- (a) *Candidates.* A candidate for City Council or Mayor shall file a sworn financial disclosure, as defined in division (d) below, with the City Secretary not later than 10 calendar days from the date the candidate files with the City Secretary an application to be placed on the official ballot or to run as a write-in candidate.
- (b) *New officers.* A newly appointed or elected officer shall file a sworn financial disclosure, as defined in division (d) below, with the City Secretary within 30 calendar days from the date the position is assumed.
- (c) *Contents.* Financial disclosures shall include:
 - (1) A list of any substantial interests the officer has in real property located within the corporate boundaries (such as city limits) or within the extraterritorial jurisdiction of the city; and
 - (2) A list of any substantial interest the person has in any business entity located within the corporate limits or within the extraterritorial jurisdiction of the city.
- (d) *Retention of statements.*
 - (1) The City Secretary shall maintain all financial disclosures required to be filed with the City Secretary under this section, in compliance with the city's records retention schedule.
 - (2) The financial disclosure file maintained by the City Secretary under this section shall be kept in alphabetical order for each year in which disclosures are filed. This file is subject to the state Public Information Act and any applicable city policy on public information.
- (e) *Form of disclosure.* Financial disclosures other than those mandated by Tex. Election Code, Chapter 254 and Tex. Local Government Code, Chapter 176, shall be filed on a form provided by the City Secretary. The City Secretary will provide a form to any person requesting one and, not less than 10 business days before the last day set for filing a statement by any person, shall send a form to the person by U.S. mail.

(Ord. No. 299, §1, 1-26-2006; Ord. No. 335, §1, 04-26-2007; Ord. No. 507, §1, 7-11-2013)

Sec. 2-68. Conflicts.

This subchapter shall not be construed to require or allow any act which is prohibited by any other ordinance or code provision. (Ord. No. 299, §1, 1-26-2006; Ord. No. 335, §1, 04-26-2007)

Secs. 2-69 - 80. Reserved.

Article V. Planning and Zoning Commission

Sec. 2-81. Creation and Purpose.

A Planning and Zoning Commission is hereby created in order to accomplish the following purposes:

- (a) To identify community needs and to advise the City Council of the short- and long-range implications of development within the City;
- (b) To recommend achievable community goals as a basis for long-range planning and development programs;
- (c) To recommend plans, programs, and policies that will aid the entire community in achieving its defined goals; and
- (d) To interpret adopted plans and programs so that private activities and desires may be accomplished in harmony with public needs and policies.

(Ord. No. 001, 11-20-1981; Ord. No. 402, §2, 5-14-2009)

Sec. 2-82 Membership and Appointment.

The Planning and Zoning Commission shall be composed of eight persons. The City Council, upon recommendation by the Mayor, will consider for appointment to the Commission only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, interest in planning and zoning, and availability to prepare for and attend meetings. It is the intent of the City Council that members shall, by reason of diversity of their individual occupations and their geographic area of residence, constitute a Commission which is broadly representative of the Community. (Ord. No. 001, 11-20-1981; Ord. No. 1C, 6-23-2005; Ord. No. 402, §2, 5-14-2009; Ord. No. 502, §1, 4-11-2013)

Sec. 2-83. Terms of Office

The term of all Commissioners shall run in conjunction with the Mayor's term. However, Commissioners will continue to serve until a replacement has been appointed. Members shall be appointed and / or re-appointed at the first City Council meeting in June of odd-numbered years following the election of the Mayor. Commissioners may be appointed to succeed themselves. Newly-appointed Commissioners shall be installed at the first regular Commission meeting after their appointment. Vacancies shall be filled for un-expired terms, but no Commissioner shall be appointed for a term in excess of two years. Any Commissioner may be removed from office by the City Council for cause. Causes for removal include malfeasance, failure to maintain reasonable familiarity with statutes, ordinances, and rules affecting the Commission, and / or failure to be governed thereby, to disclose a conflict of interest, and to attend three consecutive meetings without the recorded consent of the Chairman. (Ord. No. 001, 11-20-1981; Ord. No. 1A, 6-10-1993; Ord. No. 402, §2, 5-14-2009)

Sec. 2-84. Organization.

The Commission shall have an organizational meeting following, as soon as practical, the election of the Office of the Mayor. The Commission shall elect a Chairman and a Vice-Chairman from its membership within the first three regular meetings following the election of the Office of the Mayor. The Commission may elect a Secretary and such other officers as it deems necessary at any time. The Commission shall meet regularly and shall designate the time and place of its meetings. The

Commission shall follow Robert's Rules of Order and keep a record of its proceedings consistent with the provisions of this Ordinance and State Law. (Ord. No. 001, 11-20-1981; Ord. No. 01B, 11-15-2001; Ord. No. 402, §2, 5-14-2009)

Sec. 2-85. Duties and Powers.

The Planning and Zoning Commission is hereby charged and invested with the following duties and authority:

- (a) Inspect property and premises during reasonable hours where required in the discharge of its responsibilities under the laws of the State of Texas and of the City.
- (b) Formulate and recommend adoption to the City Council a City Plan for the orderly growth and development of the City and its environs, and, from time-to-time, recommend such changes in the City Plan as it finds will facilitate the positive movement of people, goods, and the health, recreation, safety, and general welfare of the citizens of the City.
- (c) Formulate a zoning plan as may be deemed best to carry out the goals of the City Plan; hold public hearings and make recommendations to the City Council relating to the creation, amendment, and implementation of zoning regulations and districts, as provided in Articles 1011a to 1011k, Revised Civil Statutes of Texas, as amended, authorizing cities and incorporated villages to pass regulations; all powers granted under said Act are specifically adopted and made a part hereof.
- (d) Exercise all powers of a Commission as to the approval or disapproval of plans, plats, or replats and vacations of plans, plats, or replats, as set out in Article 974a and 970a, Revised Civil Statutes of Texas.
- (e) Study and recommend to City Council on the location, extension, and planning of public rights-of-way, parks, or other public places and on the vacating or closing of same.
- (f) Study and recommend to City Council on the general design and location of public buildings, bridges, viaducts, street fixtures, and other structures and appurtenances. Study and recommend to City Council on the design or alteration and on the location or relocation of works of art which are, or may become, the property of the City.
- (g) Initiate, in the name of the City, for consideration at public hearing all proposals:
 - (1) For the opening, vacating, or closing of public rights-of-way, parks, or other public places;
 - (2) For the original zoning of annexed areas; and
 - (3) For the change of zoning district boundaries on an area-wide basis. No fee shall be required for the filing of any such proposal in the name of the City.
- (h) Formulate and recommend to the City Council for its adoption policies and regulations consistent with the adopted City Plan governing the location and / or operation of utilities, public facilities, and services owned or under the control of the City.
- (i) Keep itself informed with reverence to the progress of City Planning in the United States and other countries and recommend improvements in the adopted plans of the City.
- (j) Submit each six months a progress report to the City Council summarizing its activities, major accomplishments for the past year, and a proposed work program for the coming year. The report shall contain for the year the attendance record of all members and the identity of Commissioners.

(Ord. No. 001, 11-20-1981; Ord. No. 402, §2, 5-14-2009)

Sec. 2-86. Meeting and Quorum.

- (a) A quorum for the conduct of business shall consist of five members of the Commission. Commissioners shall regularly attend meetings and public hearings of the Commission and shall serve without compensation, except for reimbursement of authorized expenses attendant to the performance of their duties.
- (b) On a tie vote of the Commissioners present, a motion requiring a majority vote on the matter before the commission is lost, since a tie is not a majority.

(Ord. No. 001, 11-20-1981; Ord. No. 1C, 6-23-2005; Ord. No. 402, §2, 5-14-2009; Ord. No. 502, §1, 4-11-2013)

Sec. 2-87. Commission Action.

- (a) A motion may be made by any member other than the presiding officer.
- (b) A motion to approve any matter before the Commission or to recommend approval of any request requiring City Council action shall require a simple majority of those Commissioners present.

(Ord. No. 001, 11-20-1981; Ord. No. 1C, 6-23-2005; Ord. No. 402, §2, 5-14-2009)

Sec. 2-88. Disqualification from Voting.

- (a) A Commissioner shall disqualify himself from voting whenever he finds that he has a personal or monetary interest in the property under appeal, or that he will be directly affected by the decision of the Commission.
- (b) A Commissioner may disqualify himself from voting whenever any applicant, or his agent, has sought to influence the vote of the Commissioner on his application, other than in the public hearing.

(Ord. No. 001, 11-20-1981; Ord. No. 402, §2, 5-14-2009)

Chapters 3 - 5. Reserved.